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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,502	12/18/2003	Allan McLane	718395.57	1501
27128	7590	10/04/2004	EXAMINER	
BLACKWELL SANDERS PEPER MARTIN LLP			FOX, JOHN C	
720 OLIVE STREET				
SUITE 2400			ART UNIT	
ST. LOUIS, MO 63101			PAPER NUMBER	
			3753	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,502

Applicant(s)

MCLANE ET AL.

Examiner

John Fox

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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This action is responsive to the communication filed December 18, 2003.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6, 8, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Lehmann (6,164,248) of record.

Two planes as recited can be constructed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann '248 in view of Inoue et al.

Lehman teaches the claimed invention except for the sensors. Inoue et al show a heater control valve with temperature and other sensors for controlling the valve through a processor. It would have been obvious for one of ordinary skill in the art at the time the invention was made to used such sensors in the system of Lehmann to similarly control the valve.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann '248. Electric water pumps in engines are notoriously well known. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used an electric water pump with the system of Lehmann.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Kurr et al (5,529,026) of record. Kurr et al show a valve as claimed with seals 10 around the ports.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann '248 in view of Zajac et al.

Lehmann shows the claimed invention except for the biasing mechanism. Zajac et al show a bypass valve with a biasing spring so the valve fails to a safe position. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used such a biasing spring in the valve of Lehmann to similarly provide for failsafe operation.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann in view of Inoue et al as applied above and further in view of Zajac et al. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used such a biasing spring in the valve of Lehmann to similarly provide for failsafe operation.


Claims 14-15 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fox whose telephone number is 703-308-2595. The examiner can normally be reached on Maximum Flextime.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherble can be reached on 703-308-1257. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Fox
Primary Examiner
Art Unit 3753